

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Davorious M. Mack,	)	
	)	
Plaintiff,	)	Civil Action No. 6:11-1230-HFF-KFM
	)	
vs.	)	<b><u>REPORT OF MAGISTRATE JUDGE</u></b>
	)	
South Carolina Dept. of Corrections;	)	
Michael McCall, P.C.I.;	)	
Ltd Haronff, P.C.I.;	)	
Sgt. T. Robertson, P.C.I.;	)	
Cpl. R. Root, P.C.I.,	)	
	)	
Defendants.	)	
	)	

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This matter is before the court on the plaintiff's motion for default judgment (doc. 24). The plaintiff, a state prisoner proceeding *pro se*, filed his complaint seeking relief pursuant to Title 42, United States Code, Section 1983. He alleges the defendants were deliberately indifferent to his serious medical needs.

Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., this magistrate judge is authorized to review all pretrial matters in cases filed under Title 42, United States Code, Section 1983, and submit findings and recommendations to the District Court.

The plaintiff filed his complaint on May 25, 2011, and the defendants were served on June 17, 2011. On June 28, 2011, the defendants moved for an extension of time until August 1, 2011, to file their answer, which was granted by this court. The plaintiff claims the defendants failed to timely file their answer by August 1<sup>st</sup>. However, a review of the docket shows the defendants filed their answer on July 28, 2011. The defendants state that the certificate of service showing they served the plaintiff with the answer does not state

the plaintiff's correct address due to a clerical error. According to the defendants, a copy of the answer was mailed to the plaintiff's correct address on July 28, 2011 (see Penny Wright aff. ¶¶ 2-3). Along with their response to the motion for default, the defendants provided the plaintiff with another copy of the answer.

Based upon the foregoing, the plaintiff's motion for default judgment (doc. 24) should be denied.

IT IS SO RECOMMENDED.

s/Kevin F. McDonald  
United States Magistrate Judge

August 11, 2011  
Greenville, South Carolina